

R E M A R K S

This paper is in response to the Office Action dated October 5, 2007. Claims 1 – 19 are pending in the application. Claims 3, 4 and 7 - 12 stand withdrawn from consideration.

Applicants affirm the provisional election of the triketone HPPD-inhibiting herbicides in accordance with the election requirement.

Applicants respectfully traverse the rejection of claims 1 – 18 under judicial doctrine as being unpatentable over claims 1 – 20 of US 6,746,988. Applicants respectfully submit that the claims of the present application are patentably distinct from the claims of the '988 patent which is limited to alkyl polyglycoside (APG) formulations and only incidentally mentions the broad concept of herbicide/insecticide mixtures in the context of APG formulations. There is no specific and unambiguous teaching regarding the combination of HPPD's and insecticides. Reconsideration and withdrawal of the double patenting rejection are earnestly requested.

The Examiner has rejected claims 1-2, 13-19 under 103(a) as being unpatentable over Hopkinson et al. (US 6,746,988). Applicants respectfully traverse the rejection.

More specifically, Hopkinson relates to a surfactant system for agriculturally active compounds. The term agriculturally active compound is defined in column 7, lines 37 to 42 - and as can be seen it is incredibly broad. While herbicides and insecticides are included within the definition of "agriculturally active compounds" - the term is also taken to include miticides, bacteriocides, algaecides, fungicides and nematocides. Applicants acknowledge that the herbicide "boiler plate" incidentally includes, for example, HPPD inhibitors such as mesotrione. However, the specification also indicates that the agriculturally active compounds may be used singly or in combinations of 2,3,4,5,6,7 or more (column 9, lines 16-18). Thus, the agricultural compositions encompass a vast number of possible combinations of "agriculturally active ingredients". Out of all possible combinations, it is submitted that one of ordinary skill would not reasonably be led to any combination within the scope of the present claims.

The Examiner contends that Hopkinson is "fairly suggestive" of the presently claimed invention (combination of HPPD inhibitor + insecticide). However, Hopkinson provides no specific and unambiguous teaching regarding the combination of herbicides with insecticides, let alone the

Application No. 10/580,363  
Response Dated Monday, September 08, 2008  
Reply to the Office action of May 7, 2008

specific combination of HPPD inhibitors with insecticides. Furthermore, the claims of the present invention require that the HPPD-inhibiting herbicide is in the form of an agrochemically acceptable salt. This is an important limitation of the claim, since it is only with the HPPD inhibitor in this particular form that the technical effect to which the invention relates is observed (reduction in phytotoxicity).

Accordingly, the combination of HPPD-inhibiting herbicide in the form of an agrochemically acceptable salt with an insecticide is not disclosed or even remotely suggested by Hopkinson. Such a "selection" is clearly only possible as a consequence of an impermissible hindsight, motivated only by the teaching of the present invention. Furthermore, when considering the claimed invention as a whole, such combination is not merely arbitrary. The results provided in the description clearly indicate that the combination of HPPD-inhibiting herbicides and insecticides can in fact be antagonistic - and result in increased crop damage (page 1, 4th paragraph). It is this problem of increased crop damage which is specifically addressed and overcome by the present invention - wherein the HPPD-inhibiting herbicide, when combined with an insecticide, is provided in the form of an agrochemically acceptable salt. The solution to this problem is not envisaged by Hopkinson, which is associated with a completely different problem (that of providing improved surfactant systems). Consequently, Applicants believe that Hopkinson is far from "fairly suggestive" of the presently claimed invention. Reconsideration and withdrawal of the § 103 rejection are respectfully requested.

In view of the foregoing remarks, Applicants submit that the subject matter of the claims is patentable and that such claims are in condition for allowance. A Notice of Allowance is respectfully solicited.

Respectfully submitted,

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Date: Monday, September 08, 2008